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BEFORE THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Application No.: 10/648,508
Application filed: August 25, 2003
Application Title: Configurable Eyewear
Applicant: Frank T. Brzowski, small entity inventor
Representative: Frank T. Brzowski, pro-se; Attorney Patricia Wenger is removed from these actions
Primary Examiner: Huy K. Mai
Art Unit: 2873
Date: August 13, 2008

RESPONSE TO OFFICE ACTION SUMMARY MAILED FEBRUARY 13, 2008
AND
ADVISORY ACTION BEFORE THE FILING OF AN APPEAL BRIEF DATED
JUNE 28, 2008

To the Commissioner of Patents and Trademarks
Washington, District of Columbia

Sir:

On May 6, 2008, a Response to Office Action Summary dated 20080206 was submitted and its contents are incorporated in this response. Essentially, while Attorney Patricia Wenger was prosecuting the action, an agreement was reached that another divisional/continuation patent would be filed using the claims that are now being canceled. In order to be viable and not subjected to res judicata and collateral estoppel, that response had some claims that were withdrawn, 5-18, 39-45,

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74-76, and 85. The new or currently amended claims that were rejected were 35, 36, 38, 46-56, 77, 78, 80-84, 86 and 87. The advisory action dated June 28, 2008, allowed claims 37, 57-73 and 79. These claims are being filed with this action.

If for any reason the allowed claims 37, 57-73 and 79 are not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner or his Supervisor in drafting one or more acceptable claims, especially the three independent claims, pursuant to MPEP 707.07(j) or in making constructive suggestions pursuant to MPEP 706.03(d) in order that this application can be placed in allowable condition as soon as possible without the need of further proceedings.

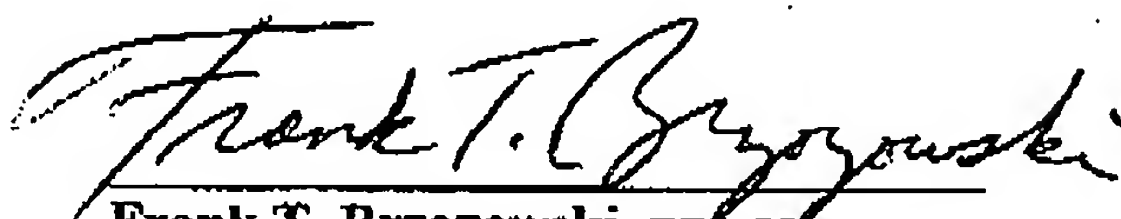
This is a request for reconsideration of the final action and the status of abandonment since applicant contends that the argument in the May 6, 2008, has substance and merit. Moreover, since the May 6, 2008 was timely filed, the \$525.00 cost of filing this 3 months extension is sought to be refunded since it is oppressive, unjust and an abuse of discretion; the patent has merit however, the defects in the format are not adequate reasons to deny the patent and keep it from being allowed.

Since Ms. Wenger is not any longer involved in the prosecuting and proceedings of this patent and she will not be the ongoing attorney of record. All correspondence and inquiries are to be directed to the inventor, Frank T.

Brzozowski. A change of counsel form was not found in the USPTO forms. As

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previously stated, do not mail any more correspondence and time sensitive documents to Patricia Wenger; mail all documents to Frank T. Brzowski, 2357 East Dauphin Street, Philadelphia, PA 19125, 215-425-7672; brzowskifrank@netzero.com.


Frank T. Brzowski, pro-se
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Enc.